

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISON

SALLY ANN CARPENTER,

Plaintiff,

v.

Civil Action No: 2:14-25500
(Judge _____)

DOLGENCORP, LLC.,

Defendant.

COMPLAINT

Plaintiffs allege and say as follows:

1. That this is an action brought by the Plaintiff on behalf of herself and others similarly situated in West Virginia to recover damages due and owing to her as a direct result of the defendants violation of Federal law known as the Fair Labor Standards Act for failure to pay overtime wage to employees pursuant to 29 U.S.C. 207, Fair Labor Standards Act, Section 6. This is an individual action, as well as a proposed collective action under 29 U.S.C. §216(b), for money damages, liquidated damages equal to the amount owed, costs, injunctive relief and attorneys' fees and other relief as a result of Defendant's commonly applied policy and practice of designating Plaintiff and other similarly situated employees who were not paid overtime in violation of federal and state wage and hour laws. Plaintiffs bring this action in their individual capacity and as a class

representative on behalf of all other similarly situated individual employee of the defendant who were similarly affected by defendant's violation of the Act.

2. That the plaintiff, Sally Ann Carpenter, at all times material hereto, was a citizen and resident of Kanawha County, West Virginia and was employed by Dolgencorp, LLC with the title of Store Manager.
3. That at all times alleged herein, Dolgencorp, LLC, was a corporation and is qualified to do business and is doing business in Southern District of West Virginia, and further, Dolgencorp, LLC operates a places of business in South Charleston and Charleston West Virginia and is within the jurisdiction of this Court. Further Dolgencorp, LLC is an employer engaged in interstate commerce as that term is defined under the Fair Labor Standards Act.
4. The United States District Court for the Southern District of West Virginia has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because it raises questions under the Federal Fair Labor Standards Act, 29 U.S.C. § 216(b).
5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(c), because the Defendants may be found in this district and the challenged conduct occurred in this state.
6. Plaintiff sues on behalf of herself and those members of the above-defined class who have filed or will file with the Court their consents to sue. This is an appropriate collective or representative action under 29 U.S.C. § 216(b), sometimes referred to as an "opt-in class action." Plaintiff and the putative class

are similarly situated in that they are all subject to Defendants common plan or practice of not paying overtime in violation of said Act.

7. That during these times, the Defendant was fully aware of the exact duties and responsibilities assigned to Plaintiffs and knew or should have known that they were therefore illegally not paying overtime wages.
8. Despite this knowledge Defendants willfully, and or negligently, failed and refused to correct its illegal actions and to pay overtime wages to said plaintiff.
9. That during her employment as "Store Manager" the Plaintiffs frequently worked more than 40 hours each week, but, despite her non-exempt job duties, they were never paid wages for hours actually worked in excess of 40 hours per week.
10. That while the defendant, Dolgencorp, LLC, classified the plaintiff and others as "Managers" she does not perform management duties to the level to allow the defendant, Dolgencorp, LLC, to exclude her and other Store Managers from overtime pay.
11. That the plaintiff, Sally Ann Carpenter, began employment with Dolgencorp, LLC on June 3, 2012, and was continuously employed thereafter until the plaintiff, Sally Ann Carpenter's, employment was terminated on November 9, 2012.
12. That without limitation the defendant would make the following specific wage and hour violations.
 - a. The would require the plaintiff to work in excess of 50 hour work weeks performing non-exempt duties such as stocking the shelves, cleaning,

running the register and multiple other duties performed by hourly employees.

13. That Dolgencorp, LLC is in violation of Federal law by failing to pay the plaintiff wages and benefits due and owing, which were earned by said plaintiff.

COUNT ONE

**INDIVIDUAL CLAIM FOR VIOLATION OF THE
FAIR LABOR STANDARDS ACT**

14. That the preceding paragraphs are realleged as if restated herein.
15. Based on the foregoing, Defendant's conduct in this regard was a violation of the Federal Fair Labor Standards Act and entitles Plaintiff to compensation for all hours in which she was not paid overtime hours worked, liquidated damages, attorneys' fees and court costs.

COUNT TWO

**COLLECTIVE ACTION CLAIM FOR
VIOLATION OF THE FAIR LABOR STANDARDS ACT ON
BEHALF OF PLAINTIFF AND ALL OTHER SIMILARLY
SITUATED EMPLOYEES, CURRENT OR FORMER**

16. That the preceding paragraphs are realleged as if restated herein.
17. Based on the foregoing, Defendant's conduct in this regard was a violation of the Federal Fair Labor Standards Act and entitles compensation for all hours work for similarly situated employees, in which they were not paid overtime hours worked, liquidated damages, attorneys' fees and court costs.

WHEREFORE, the plaintiff demands:

- a. Judgment against the defendant for an amount equal to loss of all wages,
plus interest;
- b. Liquidated damages;
- c. Attorney fees and costs; and
- d. Such further equitable and legal relief as this Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY.

SALLY ANN CARPENTER
By Counsel

s/J. Michael Ranson

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